

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF OHIO  
3 WESTERN DIVISION

4 UNITED STATES OF AMERICA, - Docket No. 3:06-CR-719  
5 Plaintiff, -  
6 v. - Toledo, Ohio  
7 - April 25, 2008  
8 - Trial  
9 -  
10 MOHAMMAD ZAKI AMAWI, et al., -  
11 Defendants. -  
12 -----

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14 VOLUME 37, TRANSCRIPT OF TRIAL  
15 BEFORE THE HONORABLE JAMES G. CARR  
16 UNITED STATES DISTRICT CHIEF JUDGE

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23 Proceedings recorded by mechanical stenography, transcript  
24 produced by notereading.  
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**1** (Reconvened at 1:33 p.m.)

**2** THE COURT: Where are we in the transcripts? I'm

00:00:04 **3** looking for one word: Progress.

00:00:06 **4** MR. SOFER: Yes.

-13:-33:-19 **5** THE COURT: The adjective can be some, lots... as

-13:-33:-19 **6** long as it's not much.

-13:-33:-19 **7** MR. SOFER: Some progress, Judge.

00:00:14 **8** THE COURT: The world total would be even happier,

-13:-33:-19 **9** but go ahead.

-13:-33:-19 **10** MR. SOFER: That would make me happy as well. Mr.

00:00:24 **11** Hartman and I --

00:01:04 **12** THE COURT: Where are we in that process?

00:01:08 **13** MR. SOFER: Mr. Hartman and I agreed to meet this

-13:-33:-19 **14** week and go through these one-by-one. I was somewhat heartened

00:01:16 **15** by fact -- there are going to be disagreements; I don't think

-13:-33:-19 **16** there's any question about that -- but on the first one we used

-13:-33:-19 **17** as an example we were able to agree on everything about it, I

-13:-33:-19 **18** think.

00:01:27 **19** THE COURT: In terms of transcription plus extended

00:01:33 **20** views?

-13:-33:-19 **21** MR. SOFER: Correct. I don't think we'll get to

-13:-33:-19 **22** all of them, but that would allow us to come to you with a much

00:01:39 **23** smaller subset. Starting at 19, if we can agree on half it will

-13:-33:-19 **24** make it much more manageable Monday evening or afternoon. I

-13:-33:-19 **25** think we can finish that up before cross-examination resumes.

00:01:52 **1** THE COURT: Okay.

00:01:56 **2** MR. HARTMAN: I would -- my understanding, and this  
-13:-33:-19 **3** could be my own recollection, but I thought the Court was going  
-13:-33:-19 **4** to allow the defense a pretty broad latitude in what it played  
-13:-33:-19 **5** of the tapes on cross-examination. Am I incorrect about that?

-13:-33:-19 **6** THE COURT: Well, I have been. I'll hear the  
-13:-33:-19 **7** individual -- but I think I have been. As far as I'm  
-13:-33:-19 **8** concerned, I think, on the whole, they have been -- there have  
-13:-33:-19 **9** been relatively few disputes. But I think, as I've already  
00:02:32 **10** overruled, but I think it was probably by hindsight, a very well  
-13:-33:-19 **11** taken objection under the rule of completeness, sort of turned  
-13:-33:-19 **12** that on its head, it makes better sense to the jury this way  
00:02:49 **13** than to do it otherwise at this stage. I don't expect to  
-13:-33:-19 **14** change field drastically from the general pattern I've been  
-13:-33:-19 **15** setting. But, on the other hand, I'm hearing them out because  
00:03:10 **16** apparently you have a lot more, at least that you presently or  
-13:-33:-19 **17** have been expecting to play, than either Mr. Helmick or Mr.  
00:03:20 **18** Ivey.

-13:-33:-19 **19** MR. HARTMAN: That's correct.

-13:-33:-19 **20** THE COURT: So the fact that they got in pretty  
-13:-33:-19 **21** much what they wanted to, sure, I'll hear what he has to say.

00:03:33 **22** MR. SOFER: As I have told Mr. Hartman, our rule  
-13:-33:-19 **23** of completeness objections I believe are timely here, so.

-13:-33:-19 **24** THE COURT: I agree. I agree completely. I  
00:03:46 **25** think if viewed technically, not even hypertechnically, the

-13:-33:-19 **1** correct time got missed, but I think it was a common mistake.

-13:-33:-19 **2** It's one of those things, I've got a hunch, you don't want to go

-13:-33:-19 **3** down to Cincinnati and argue the Judge agreed with it, so forth

-13:-33:-19 **4** and so on.

00:04:11 **5** MR. SOFER: Some of my objections to what Mr.

00:04:14 **6** Hartman's trying to do to -- the government's objection that the

-13:-33:-19 **7** rule of completeness is not being filed now, I want to put --

-13:-33:-19 **8** not a little hanging chad, for lack of a better term, we'd like

00:04:29 **9** to put in more of the election so folks understand.

00:04:33 **10** THE COURT: Do what you can and I'll fix the rest.

00:04:40 **11** There is a matter that we really have to talk to in

-13:-33:-19 **12** camera on the record. And I think we should plan to do that at

00:04:48 **13** 2:30. We can do it earlier. What time do you have to leave?

-13:-33:-19 **14** MR. HARTMAN: I have to leave at 2:30.

-13:-33:-19 **15** THE COURT: Not later than 2:15. 2:15 should be

-13:-33:-19 **16** early enough. If we get done a little sooner with this, fine.

00:05:06 **17** I think Mr. --

00:05:10 **18** Mr. Herdman, Mr. Getz?

00:05:15 **19** MR. GETZ: I'll go to the podium.

00:05:22 **20** THE COURT: Mr. Bryan, if you feel tag-teamed, I

-13:-33:-19 **21** would understand. Go ahead, Mr. Getz.

00:05:31 **22** MR. GETZ: The arguments the government has already

00:05:38 **23** made with respect to the other experts, particularly the last

00:05:41 **24** one which defense has indicated is kind of the left or right

-13:-33:-19 **25** hand to this one, they obviously would equally apply, but there

-13:-33:-19 **1** are some additional issues.

-13:-33:-19 **2** THE COURT: A little slower.

00:05:58 **3** MR. GETZ: There are some additional issues with

-13:-33:-19 **4** regard to Mr. Aslan that are particular to him.

00:06:17 **5** We have been provided with a letter from Mr.

-13:-33:-19 **6** Amawi's Counsel that explains or sets out kind of in summary

-13:-33:-19 **7** form the nature of the proposed testimony, and then I guess

00:06:34 **8** that's the place to start. I'd say attached to that was what

-13:-33:-19 **9** was represented as being his current CV as well.

-13:-33:-19 **10** There are basically in the letter six topic areas

00:06:51 **11** that Mr. Aslan is being proposed as an expert to testify about.

-13:-33:-19 **12** In summary those are --

00:07:36 **13** THE COURT: Okay.

-13:-33:-19 **14** MR. GETZ: I believe the Court was copied on this

00:07:40 **15** letter of April 15, 2008, as well.

00:07:43 **16** But the six topic areas in kind of thumbnail

-13:-33:-19 **17** fashion are, Number 1. The description of the origins and early

00:07:50 **18** development of Islam. 2. The explanation of the concept of

-13:-33:-19 **19** Jihad. 3. An explanation of the Jihadist movement. 4.

00:08:01 **20** Historical explanation of the rise of the contemporary Jihadist

00:08:06 **21** social group.

-13:-33:-19 **22** THE COURT: Description -- the origin of the

00:08:11 **23** development of Islam. A little slower. Even though it's all

-13:-33:-19 **24** in the letter, I'm typing.

-13:-33:-19 **25** The second one was?

-13:-33:-19 **1** MR. GETZ: Explanation of the concept of Jihad.

-13:-33:-19 **2** Third, an explanation of the Jihadist movement. Again, these

-13:-33:-19 **3** are somewhat shorthand.

-13:-33:-19 **4** THE COURT: I understand.

-13:-33:-19 **5** MR. GETZ: The one or two lines that were in the

-13:-33:-19 **6** letter.

00:08:40 **7** Number 4 was an historical explanation of the rise

-13:-33:-19 **8** of the contemporary Jihad social movement and political

00:08:52 **9** ideology.

-13:-33:-19 **10** Number 5 was explanation of how jihadism has now

00:09:03 **11** become a global social movement.

00:09:07 **12** And 6 was termed a Sociological Explanation of How

-13:-33:-19 **13** Global Social Movements Function.

00:09:27 **14** We were given no other information or report of

-13:-33:-19 **15** what the testimony would be or what it's based on other than

00:09:35 **16** being given Mr. Aslan's CV, which indicates that currently he's

-13:-33:-19 **17** an Assistant Professor of Creative Writing and the co-founder of

00:09:46 **18** a TV production company, apparently also a media commentator.

-13:-33:-19 **19** That information came from other sources. He does have a

-13:-33:-19 **20** master's in theology and a bachelor of arts in religion. Has a

00:09:59 **21** master's in fine arts, fiction writing. He's published one

-13:-33:-19 **22** book which is a non-fiction work; he's got another book, a

-13:-33:-19 **23** non-fiction work due out soon. And again, from two other

-13:-33:-19 **24** sources, apparently there's an indication that he's writing a

-13:-33:-19 **25** novel.



00:10:18 **1** From the information provided in his CV his most  
00:10:21 **2** recent commentary or article was published in the summer of  
00:10:25 **3** 2006. And in reviewing the articles, or at least most of the  
00:10:34 **4** articles that were listed in the CV that I was able to obtain, a  
-13:-33:-19 **5** large percentage of those seem to relate to Iran and Pakistan.  
-13:-33:-19 **6** Mr. Aslan is a native of Iran, and that seems to be his primary  
-13:-33:-19 **7** focus and most of his commentation. There's no indication of  
-13:-33:-19 **8** any prior testimony in any court anywhere.

00:10:52 **9** Now, the issues that are raised by the proposal of  
-13:-33:-19 **10** this particular testimony begin with -- and again, this is -- he  
-13:-33:-19 **11** has been proposed by the defense as an expert pursuant to Rule  
00:11:06 **12** 702, 703 and 705. The first we have what the nature of his  
00:11:15 **13** specialized knowledge is. Clearly it would seem to be, or at  
-13:-33:-19 **14** least we could concede in part that due to his research and his  
00:11:22 **15** education, having a master's in theology, he may be working on  
00:11:26 **16** his Ph.D. on religious-based background, that there may be some  
00:11:34 **17** specialized knowledge or background that he has in theology or  
00:11:37 **18** religion. However, there's no indication that he's ever had  
00:11:40 **19** any education or experience or done anything in the area of  
-13:-33:-19 **20** sociology or politics, and that raises some issues in regards to  
-13:-33:-19 **21** at least half of the proposed topics.

00:11:53 **22** The next question or issue is how this knowledge is  
-13:-33:-19 **23** going to assist the jury in either understanding the evidence,  
-13:-33:-19 **24** and certainly we have no way of knowing --

-13:-33:-19 **25** THE COURT: Can you repeat what you just said about

-13:-33:-19 **1** knowledge of Islam? Back up a paragraph.

00:12:12 **2** MR. GETZ: I was indicating I think in terms of

-13:-33:-19 **3** what specialized knowledge he brings to the table, that arguably

00:12:18 **4** there may be some specialized knowledge or education in the area

-13:-33:-19 **5** of theology and religion. That seems to be part of his

00:12:26 **6** background along with fine arts. But there's no indication

-13:-33:-19 **7** that he's ever done anything in the realm of sociology or

-13:-33:-19 **8** politics. And in looking at the topics set out in the letter,

-13:-33:-19 **9** as a basis for his proposed testimony, at least half of those

00:12:44 **10** deal with sociological movements and political ideology.

00:12:49 **11** We next would have to ask what the knowledge is

-13:-33:-19 **12** going to assist -- what that specialized knowledge, assuming

-13:-33:-19 **13** that he has it, he's qualified to speak of it, what that is

-13:-33:-19 **14** going to assist the jury in in terms of understanding the

-13:-33:-19 **15** evidence. And we've been given no indication of what evidence

-13:-33:-19 **16** it is that Mr. Aslan is going to assist the jury in

00:13:09 **17** understanding, but that would be, certainly, a question for this

-13:-33:-19 **18** Court to ask. Also, if not that, then determining a fact in

00:13:17 **19** issue, again we don't know what fact is in issue that Mr.

00:13:20 **20** Aslan's background is going to help in.

00:13:28 **21** We have no indication other than, I guess, his

00:13:31 **22** degrees as master's in religion -- I'm assuming that's what his

-13:-33:-19 **23** testimony would be based upon -- but what facts or data --

-13:-33:-19 **24** THE COURT: Well, he's written a book that's about

-13:-33:-19 **25** to be published by Random House or has been, so no. No God

00:13:55 **1** but -- not small G god, but capital G -- God: The Origin and  
-13:-33:-19 **2** Evolution of the Future of Islam. Published March 2005.

-13:-33:-19 **3** Okay. Go ahead.

00:14:09 **4** MR. GETZ: Again, that book has not yet been  
-13:-33:-19 **5** published, so obviously we have no way of knowing -- that might  
-13:-33:-19 **6** have been the one that was published.

00:14:18 **7** THE COURT: There's one coming out. I was  
00:14:20 **8** confused, too. The one I just referenced apparently was  
00:14:24 **9** published three years ago.

-13:-33:-19 **10** MR. GETZ: That's correct, Your Honor. I'm sorry.

-13:-33:-19 **11** THE COURT: No problem. Go ahead.

00:14:30 **12** MR. GETZ: But in terms -- we're left not knowing  
-13:-33:-19 **13** what the facts or data is that his testimony is going to be  
-13:-33:-19 **14** based upon, and the question that's raised is, again assuming  
00:14:41 **15** for argument purposes, that he has some specialized knowledge  
00:14:45 **16** regarding religion, and even perhaps in Islam in particular, we  
-13:-33:-19 **17** would need to know and assess what, other than his own personal  
00:14:53 **18** perspective or beliefs. And again, as an Iranian, and I think  
-13:-33:-19 **19** he self-describes himself as a moderate, what is he opining on,  
00:15:02 **20** what facts or data?

00:15:03 **21** THE COURT: Maybe you can find that out from  
00:15:06 **22** Counsel.

00:15:10 **23** Where are folks on this whole business of trying to  
-13:-33:-19 **24** explain to the jury what Jihad means? What different kinds of  
-13:-33:-19 **25** meanings might there be? In terms of -- aside from the whole

-13:-33:-19 **1** issue, does the government agree at all to any definitions? And  
-13:-33:-19 **2** the defense, you have been able to come up with a common  
00:15:36 **3** formulation or -- and if not, and I wouldn't be surprised if  
00:15:41 **4** not, it really does seem to me you've got -- I ought to permit  
00:15:47 **5** the parties to the extent that they have differing views of what  
-13:-33:-19 **6** that term means, be it in terms of political, terrorist,  
00:16:05 **7** religion, whatever the meanings are, I could see having the jury  
00:16:09 **8** hear very briefly from somebody on each side, tell them what it  
00:16:14 **9** means.

-13:-33:-19 **10** MR. GETZ: Where we are, Judge, is that is one of  
00:16:17 **11** the terms we are presently discussing with our colleagues. My  
-13:-33:-19 **12** understanding from having talked to Mr. Witmer-Rich, this  
-13:-33:-19 **13** relates, I guess, to this consent to some extent, is that the  
00:16:31 **14** defense, the Amawi defense would not -- they would seek to  
-13:-33:-19 **15** elaborate anyway on whatever definition we would have come up  
-13:-33:-19 **16** with. I assume the witness would do that, in combination with  
00:16:48 **17** another witness, I don't know.

00:16:50 **18** Interestingly, I think Jihad is explained, once  
-13:-33:-19 **19** again, in large measure by what's already in evidence; the  
00:17:00 **20** defendants talk about it; Mr. Griffin talks about it. There's  
-13:-33:-19 **21** a lot of discussion about Jihad in the consensual recordings.  
00:17:09 **22** Certainly though if the Court was to allow a defense expert to  
00:17:14 **23** testify about it we would like to recall the expert.

00:17:23 **24** THE COURT: Do you know who that is?

-13:-33:-19 **25** MR. GETZ: It would not be Mr. Kohlmann.

00:17:27 **1** THE COURT: As knowledgeable as he strikes me, he  
-13:-33:-19 **2** really does -- I have no problem with his knowing what he's  
-13:-33:-19 **3** talking about, I'm not sure that his knowledge would reach to  
-13:-33:-19 **4** that point. But by all means I would permit the government,  
00:17:39 **5** and were the government able to do so in its direct case, and I  
-13:-33:-19 **6** think that's where it would fit.

-13:-33:-19 **7** MR. GETZ: We've begun researching this on the odd  
-13:-33:-19 **8** chance -- or maybe not so odd chance -- that this was the  
00:17:52 **9** position that we would be put in. So we will do that.

-13:-33:-19 **10** Again, I'd ask the Court-- we are not that far  
-13:-33:-19 **11** away from the end of the government's direct case -- I would ask  
-13:-33:-19 **12** that Your Honor suspend the usual time requirement. Obviously,  
00:18:08 **13** if we were to get notice now, there is an interpretation of the  
-13:-33:-19 **14** law here that I don't think it would be fair that we would not  
-13:-33:-19 **15** be able to call such expert. Under the circumstances, it seems  
-13:-33:-19 **16** it's reasonable that the government give notice as soon as we  
00:18:26 **17** figure out who this person would be.

-13:-33:-19 **18** THE COURT: That's no problem, because, after all,  
-13:-33:-19 **19** I think technically under the rules, if I were to permit this  
00:18:34 **20** proposed expert to testify to that, you could and he would be  
00:18:39 **21** exposed to whatever your person said, and a little ping-pong  
00:18:45 **22** rebuttal and come-back.

00:18:46 **23** MR. GETZ: It would be helpful to the government --  
00:18:48 **24** this is one of the reasons we want to resolve this sooner rather  
-13:-33:-19 **25** than later. If we end up with three terms, Jihad and two

00:18:55 **1** others, that's one thing. But obviously the more this door  
00:18:59 **2** swings open, the more likely it is that it's going to cause,  
00:19:04 **3** again, what the government believes to be problematic expansion  
-13:-33:-19 **4** of the --  
-13:-33:-19 **5** THE COURT: I agree. It seems to me that this  
-13:-33:-19 **6** term, some of the jurors, like myself, may have come into this  
-13:-33:-19 **7** case with a sense of Jihad, "holy war, end of discussion," and  
00:19:24 **8** that there are a variety of -- I was dissuaded slightly by  
00:19:31 **9** lawyers, plaintiff's lawyer in the case. So obviously it has  
-13:-33:-19 **10** to have some sense of meaning or meanings. The evidence so far  
00:19:42 **11** indicates that there are various meanings depending upon the  
00:19:46 **12** context. And I think it's important that the jury,  
00:19:52 **13** particularly to the extent it might have just a single concept  
-13:-33:-19 **14** in mind, be made aware that there are different or perhaps  
00:20:03 **15** somewhat different, somewhat overlapping, interpretations of a  
00:20:09 **16** term that is crucial in the case.  
00:20:15 **17** MR. GETZ: Assuming we were to say Your Honor  
-13:-33:-19 **18** ruled, as the government would urge you to, limit the expert  
00:20:24 **19** testimony to one term, let's say that's all we were focusing on.  
00:20:28 **20** What I think Counsel is asking for is some massive description  
-13:-33:-19 **21** of history and --  
00:20:37 **22** THE COURT: I agree with that. I'm talking about  
00:20:41 **23** in contemporary terms, "Jihad" has or can be used in these sorts  
-13:-33:-19 **24** of ways. In a religious context, in contemporary terms, and  
00:20:56 **25** perhaps historically it has this or that. We don't talk about

-13:-33:-19 **1** the Crusader Kingdom and Richard the Lionheart and go on,

00:21:11 **2** Palestine. I would undertake to limit that very vigorously.

00:21:24 **3** MR. GETZ: Understood, Judge.

-13:-33:-19 **4** THE COURT: Mr. Getz.

00:21:27 **5** MR. GETZ: Just to summarize for the record the

00:21:30 **6** arguments we've already presented, and in addition, because we

-13:-33:-19 **7** don't believe that this witness in particular is qualified to

-13:-33:-19 **8** testify as to the topics proposed in the letter provided to us

00:21:40 **9** by the defense, and obviously again on issues of relevance, we

-13:-33:-19 **10** would object to this witness.

00:21:47 **11** THE COURT: And I sort of tend to agree with you

-13:-33:-19 **12** about page 2, sociological. But let's hear from Mr. Bryan.

-13:-33:-19 **13** MR. BRYAN: I would hope Your Honor would withhold

-13:-33:-19 **14** judgment until you hear from Mr. Bryan.

00:22:04 **15** THE COURT: No, no. I believe in letting people

-13:-33:-19 **16** know absolutely what I'm thinking because I think among many,

-13:-33:-19 **17** many unfair things for a judge to do, one is to sit up here kind

-13:-33:-19 **18** of uh-uh, huh, uh-huh, then hit you with a sand bag. Judge, why

00:22:25 **19** didn't you tell me?

00:22:27 **20** MR. BRYAN: I did experience that widely throughout

00:22:29 **21** my 16 years arguing before judges, but I won't tell you which of

-13:-33:-19 **22** your colleagues. But anyway.

00:22:40 **23** THE COURT: Never in Toledo. But go ahead.

00:22:43 **24** MR. BRYAN: Since this is my first experience in

-13:-33:-19 **25** Toledo, that's obviously the situation.

00:22:49 **1** First of all, as it relates to Mr. Aslan's  
00:22:53 **2** qualifications as a sociologist, he's a doctoral candidate in  
-13:-33:-19 **3** sociology to get a Ph.D. in the sociology of religion. His  
-13:-33:-19 **4** thesis, which is going to be completed this fall -- by the end  
-13:-33:-19 **5** of the summer into the fall -- is jihadism as a social movement.  
00:23:12 **6** So Your Honor's already referred to the fact that someone may be  
00:23:16 **7** permitted to testify about Jihad and define Jihad. And quite  
00:23:21 **8** frankly, we'd want to bring in Mr. Aslan as an expert who not  
00:23:26 **9** only is a religion scholar, his masters is in divinity from  
00:23:30 **10** Harvard University; Theological Studies obviously with an  
-13:-33:-19 **11** emphasis on Islam. He is a Muslim himself from Iran. It is  
-13:-33:-19 **12** true, as Mr. Getz articulated --  
00:23:42 **13** THE COURT: Let me interrupt. I've tried quite  
00:23:46 **14** vigorously, to some extent, disconcerted government counsel, to  
-13:-33:-19 **15** keep the idea of groups and group connections and so forth --  
-13:-33:-19 **16** this seems to me the adverse of much of what Mr. Kohlmann wanted  
-13:-33:-19 **17** to talk about. About freedom fighters in Chechnya and Bosnia  
-13:-33:-19 **18** and so forth. I mean, what relevance do global groups of any  
-13:-33:-19 **19** particular kind have to this case where there's no real linkage  
00:24:25 **20** of a sense of any of these defendants having clearly established  
-13:-33:-19 **21** any kind of affiliation with --  
00:24:39 **22** MR. BRYAN: Well, Your Honor, as it relates to  
-13:-33:-19 **23** social movement, which is part of the proffered testimony of Mr.  
00:24:44 **24** Aslan, social movement theory isn't necessarily you have to  
-13:-33:-19 **25** become a card-carrying member of a specific group or anything



-13:-33:-19 **1** like that. It's basically identifying with the specific  
00:24:58 **2** ideologies. As an example of a social movement, it could be the  
-13:-33:-19 **3** radical environmentalist group, people who -- or the  
-13:-33:-19 **4** antiglobalization movement as well. There are many who believe  
-13:-33:-19 **5** in those movements and believe in the causes of those movements  
-13:-33:-19 **6** and believe and hope for the successful bringing about of  
-13:-33:-19 **7** whatever those movements espouse. But there are few people --  
00:25:20 **8** and these people that it's referred to in the letter, this is  
-13:-33:-19 **9** social movement theory in sociology.

00:25:28 **10** THE COURT: Let me ask you this: If I recall my  
-13:-33:-19 **11** history correctly, for much of the period that is influenced,  
00:25:44 **12** there were very few people in the South who belong to the Ku  
-13:-33:-19 **13** Klux Klan. There were many people in the South, 1920s, who  
-13:-33:-19 **14** supported much that it did as vile, as it was, and as general,  
-13:-33:-19 **15** segregation, southern revivalist kind of activities. And is  
-13:-33:-19 **16** that the kind of thing you mean? And if so, again, what  
-13:-33:-19 **17** difference -- how would that be relative in the defense of the  
00:26:23 **18** people who have been prosecuted, particularly recently and  
00:26:30 **19** successfully, 20 years after the events of the bombings and so  
-13:-33:-19 **20** forth? How would that relate? And isn't that the same kind of  
-13:-33:-19 **21** relation you're trying to show here? No comparison; I'm trying  
-13:-33:-19 **22** to pick an example closer to home.

00:26:49 **23** MR. BRYAN: To borrow Your Honor's analogy, there  
-13:-33:-19 **24** could be groups of people in the South who agree with the  
-13:-33:-19 **25** ideology of the Ku Klux Klan, believe African Americans are

00:26:58 **1** inferior, and they're part of the devil race, and that they  
00:27:01 **2** should be exterminated from the planet, but they would never act  
-13:-33:-19 **3** on those beliefs. Now, there are a few who belong to the Ku  
00:27:09 **4** Klux Klan who -- even members of the Ku Klux Klan who wouldn't  
-13:-33:-19 **5** act on those beliefs. But there are a few who rallied lynching  
00:27:17 **6** mobs, and they would go out and lynch African Americans for  
00:27:23 **7** looking cross-eyed at a white woman. They're taking that same  
00:27:36 **8** idea. It would be akin to them going to the South and sending  
00:27:41 **9** in an undercover agent to sit with them, a southern bigot, and  
-13:-33:-19 **10** have him espouse that if I had the chance, I would string up  
-13:-33:-19 **11** that nigger myself, and I would hang him from the tree, and I  
00:27:52 **12** would hold on to the rope. If I could do that, I would; I  
-13:-33:-19 **13** would do something like that. And I'm happy they killed that  
-13:-33:-19 **14** nigger because he did look cross-eyed at that girl, that white  
-13:-33:-19 **15** girl who was walking down the street; I'm happy about that.  
-13:-33:-19 **16** And then they got that person basically to say, I'm going to go  
-13:-33:-19 **17** out to a shooting range or something and learn how to shoot so I  
-13:-33:-19 **18** can kill niggers --

-13:-33:-19 **19** THE COURT: Again, I don't see -- again, the  
00:28:25 **20** analogy, you would have sort of the history of the Ku Klux Klan  
00:28:31 **21** movement and its origins and movement after the Civil War and  
00:28:38 **22** the Civil Rights Act, and so forth, and Reconstruction, but up  
-13:-33:-19 **23** through the revival of the revivalist of that and David Duke and  
00:28:49 **24** all this stuff. What --

00:28:54 **25** MR. BRYAN: As far as giving the broad picture --

00:29:02 **1** as far as Mr. Aslan's testimony concerning sort of jihadism as a  
-13:-33:-19 **2** social movement, I don't anticipate that his testimony would be  
00:29:13 **3** a history course on Islam jihadism. First of all, he would  
00:29:19 **4** explain what Islam is. First of all, I think that's important  
-13:-33:-19 **5** for the jury to understand that. And I've learned a lot myself  
-13:-33:-19 **6** in this case, Your Honor. And I'll admit to some of my own  
-13:-33:-19 **7** biases shortly after September 11, thinking what kind of  
-13:-33:-19 **8** religion would support this atrocity, and I remember David  
-13:-33:-19 **9** Letterman even saying: They say that the people who did this  
-13:-33:-19 **10** were doing this for God. He said: I can live 1,000 years and  
00:29:44 **11** I'll never be able to understand that concept, that this was  
-13:-33:-19 **12** done for God, on behalf of God.  
00:29:52 **13** THE COURT: You're moving further and further away  
00:29:55 **14** from what this case is about.  
00:29:57 **15** MR. BRYAN: I'm using those analogies, and a lot of  
00:30:00 **16** jurors have the same perception of our clients.  
00:30:02 **17** THE COURT: I don't think so. That was the whole  
-13:-33:-19 **18** purpose of voir dire. They were questioned both in the  
00:30:11 **19** questionnaire, and I think every single one of the people in  
00:30:14 **20** that box said it doesn't matter to me. I said to them, so many  
00:30:20 **21** of the jury, would you like to be on trial for your religious  
00:30:23 **22** beliefs? I honestly think the jurors -- this strikes me as  
00:30:29 **23** being a very good set of jurors. But you've argued in front of  
-13:-33:-19 **24** juries, and I think the voir dire process in some small part is  
-13:-33:-19 **25** intended to make sure that none of these defendants was on trial

00:30:55 **1** because of their religious beliefs, whatever those beliefs were,  
-13:-33:-19 **2** and to the extent that the jurors may have a perception that  
-13:-33:-19 **3** there's a certain radical component to Islam, whichever to ex --  
-13:-33:-19 **4** I think they understand that's a religious linkage that cannot  
-13:-33:-19 **5** be a factor. So I don't think they need to have any  
-13:-33:-19 **6** explanation about Islam.  
-13:-33:-19 **7** As I said, what Jihad can mean, what the term can  
-13:-33:-19 **8** mean, and perhaps just a touch about, quote, Jihadist movements,  
-13:-33:-19 **9** but I'm not even sure about that because we start veering off  
-13:-33:-19 **10** into this area and getting further and further away from the  
-13:-33:-19 **11** evidence in this case, any nexus with these defendants or -- or  
-13:-33:-19 **12** Mr. Amawi, or any of the defendants because all of them use the  
-13:-33:-19 **13** term Jihad.

-13:-33:-19 **14** MR. BRYAN: First of all, as it relates to the  
00:31:52 **15** jurors, I would agree with Your Honor and everything Your Honor  
-13:-33:-19 **16** said about the jurors. I would give Your Honor credit for the  
-13:-33:-19 **17** manner in which voir dire was conducted. And this isn't meant  
-13:-33:-19 **18** to stroke Your Honor in hopes of some future ruling in my favor,  
-13:-33:-19 **19** but it was the most informative jury selection process that I've  
00:32:12 **20** ever been part of in front of a court. And I think it was very  
00:32:16 **21** informative and I agree with Your Honor, I believe that we were  
-13:-33:-19 **22** able to select -- at least based upon current perception, we  
00:32:23 **23** were able to select a group of jurors who were vetted, who made  
00:32:29 **24** it through that vetting process.

00:32:31 **25** Notwithstanding that, first or second day of trial

-13:-33:-19 **1** we came across a juror who apparently had some very strong  
00:32:38 **2** anti-Muslim biases.

-13:-33:-19 **3** THE COURT: I'm not so sure that's the case. But  
-13:-33:-19 **4** anyway. You're right. I'm going to say it didn't work  
00:32:47 **5** perfectly. That's why we have PD.

00:32:51 **6** MR. BRYAN: But Islam is not something that is  
-13:-33:-19 **7** within the common understanding of this jury as it relates to  
-13:-33:-19 **8** the rules of evidence and being able to provide the jurors with  
-13:-33:-19 **9** evidence that is helpful to them in their fact determination  
-13:-33:-19 **10** process. I agree with Your Honor that this case isn't about  
-13:-33:-19 **11** Islam. It's not about the Iraq war. But this case also isn't  
00:33:12 **12** being viewed in a vacuum. The context of this case is, in fact,  
-13:-33:-19 **13** the government will say the motivation behind our clients'  
-13:-33:-19 **14** intentions is the desire to seek revenge for the Iraq war. And  
-13:-33:-19 **15** Islam is a part of a lot of what our clients are saying, a lot  
-13:-33:-19 **16** of their viewpoints and what they believe. And a Jihad, in  
00:33:33 **17** defining it, I agree, Your Honor already agrees, that we have to  
00:33:37 **18** be able to define Jihad in more than the simple dictionary  
00:33:41 **19** definition of the term.

00:33:44 **20** As it relates to Mr. Aslan's testimony, again, he  
-13:-33:-19 **21** will soon have a Ph.D. in sociology, sociology of religion, and  
00:33:56 **22** his doctoral dissertation is directly relevant to this case,  
00:34:00 **23** Jihadism as a social movement. To summarize that social  
00:34:03 **24** movement, consistent with the law, a lot of what ^ \*\*\* Professor  
-13:-33:-19 **25** Ordman (phonetically) was saying, that in the Middle East, in

-13:-33:-19 **1** the Islamic culture, there are, especially young men, that are  
00:34:17 **2** very drawn to the Jihadist movement. It is -- in essence to  
-13:-33:-19 **3** become the Middle Eastern or the Arabic man's kids' marines.  
-13:-33:-19 **4** You know how we look up to the Marines in this country; they  
-13:-33:-19 **5** would look up to the Mujahidin. And they have pure motives, but  
-13:-33:-19 **6** that doesn't mean they're going to join the Mujahidin any more  
-13:-33:-19 **7** than it means that American kids who fantasize about growing up  
00:34:47 **8** and becoming a Marine are going to join the Marines. Some do,  
-13:-33:-19 **9** and some don't.

-13:-33:-19 **10** But I think it can be summarized, his testimony  
00:34:56 **11** could be summarized, in essence, with this one sort of idea, and  
-13:-33:-19 **12** that is Mr. Aslan will testify --

00:35:05 **13** THE COURT: A little slower, please.

00:35:07 **14** MR. BRYAN: That experts that coin the term GOGs,  
00:35:14 **15** or Group of Gods, to describe the small group of young Muslim  
00:35:19 **16** men often in the west who get together around this Jihadist  
00:35:25 **17** ideology and follow it. They sit around, they watch Jihadist  
-13:-33:-19 **18** videos, they complain, they talk in increasingly macho terms  
-13:-33:-19 **19** about who would do what if they were on the battle field. And  
-13:-33:-19 **20** many things -- much of the testimony that we've heard so far  
00:35:43 **21** through the tapes has always been that conditional, "if", if I  
-13:-33:-19 **22** were in Iraq, I would walk amongst the tanks and everyone would  
-13:-33:-19 **23** see how brave I was and that I wasn't afraid to die for my  
00:35:56 **24** cause, and I think that would be very moving; those types of  
00:36:00 **25** comments are made in these tapes.

-13:-33:-19 **1** THE COURT: The fact that others do that, how does  
-13:-33:-19 **2** that prove that that's what was going on here to the extent that  
-13:-33:-19 **3** it was?

00:36:13 **4** MR. BRYAN: Just to complete what I was saying --

00:36:16 **5** THE COURT: Go ahead.

00:36:17 **6** MR. BRYAN: What they would do if they were on the  
00:36:19 **7** battle field, how they would fight back. Who would be the

00:36:22 **8** toughest and most fearless, et cetera, but they don't do

00:36:25 **9** anything. I see that in a lot of the comments that Mr. El-Hindi

-13:-33:-19 **10** had made. I see it, admittedly, in a lot of the comments that

-13:-33:-19 **11** Mr. Amawi has said. And the key is: This is commonplace. The

00:36:40 **12** type of conversations and the type of activity that was taking

00:36:43 **13** place with our clients, and specifically Mr. Amawi, viewing

-13:-33:-19 **14** videos with the informant in this case and talking tough about,

-13:-33:-19 **15** you know, "if" -- if I was there, it would be my pleasure to

-13:-33:-19 **16** kill American soldiers; it would be my pleasure to cut their

-13:-33:-19 **17** heads -- is part of this social movement theory. There are

00:37:03 **18** people who support the cause, who support the cause but would

-13:-33:-19 **19** never join the cause. And if the jury is not permitted to hear

-13:-33:-19 **20** that, then all they're left with is the government's inferences

-13:-33:-19 **21** that they want to be drawn from what our clients say or my

00:37:22 **22** arguments. And I agree --

-13:-33:-19 **23** THE COURT: You said drawn to this. I didn't hear

-13:-33:-19 **24** what you're saying. If the jury doesn't hear this...

00:37:36 **25** MR. BRYAN: If the only thing that the jury hears

-13:-33:-19 **1** is the tapes that are being played, which obviously we're not  
-13:-33:-19 **2** arguing about the evidence or the validity of it, in hearing  
-13:-33:-19 **3** that. But if that's all they are allowed to hear and the  
-13:-33:-19 **4** government's arguments that he said if he was in Iraq he'd kill  
00:37:55 **5** American soldiers. He said if he was in Iraq it would be his  
-13:-33:-19 **6** pleasure to cut their heads. He said that he would walk  
00:38:02 **7** amongst the tanks and show how fearless he was. He said all  
-13:-33:-19 **8** these things. And they're not aware that in the Muslim world,  
-13:-33:-19 **9** in the Arabic communities around the world, that young men sit  
-13:-33:-19 **10** around, watch these videos, and say these things all the time.  
-13:-33:-19 **11** Now, admittedly, that's not -- that's not our case  
-13:-33:-19 **12** that we're talking about what they're doing around the world,  
-13:-33:-19 **13** but I think we should be permitted to explain to the jury that  
-13:-33:-19 **14** these viewpoints and these things that are said by our clients  
-13:-33:-19 **15** aren't that uncommon. And this is now weaving Mr. Aslan and  
00:38:41 **16** \* \* \* Professor Alterman's testimony together, both from a  
-13:-33:-19 **17** religious standpoint, from a social movement theory under  
00:38:51 **18** sociology, and from a cultural standpoint that young Arabic  
00:38:56 **19** Muslim men frequently cheer against the United States,  
00:39:01 **20** frequently cheer for the death of American soldiers, yet they  
-13:-33:-19 **21** don't go in -- take it to the next step and become a mujahidist  
00:39:12 **22** or a warrior or a fighter.  
00:39:15 **23** Similar, another social movement theory, and I  
-13:-33:-19 **24** don't think this is the best example, would be young inner-city  
00:39:24 **25** youth adopting sort of the rap mentality and they listen to rap



00:39:29 **1** songs about how glamorous it is to sell drugs and to carry a  
-13:-33:-19 **2** Gat, which is slang for a gun, and to, you know, kill the  
-13:-33:-19 **3** police. But they don't do it.  
00:39:44 **4** THE COURT: That is perhaps a good analogy. And  
-13:-33:-19 **5** why can't -- a couple things. It seems to me that is an apt  
00:39:55 **6** analogy, that, ladies and gentlemen, we all know how popular rap  
-13:-33:-19 **7** music is in this country and how appealing it is to many, many  
00:40:07 **8** young people, almost none of them wind up doing any of the  
00:40:11 **9** things that they listen to music -- listen to this music about.  
-13:-33:-19 **10** That they may even sing about, they talk about and they try to  
-13:-33:-19 **11** imitate in various kinds of ways, in terms of dress and language  
-13:-33:-19 **12** and attitude and outlook, but they don't go out and shoot police  
00:40:27 **13** officers. The same is true here. And it also seems to me there  
-13:-33:-19 **14** are some pretty clear, at least at this point, circumstances in  
-13:-33:-19 **15** evidence that give you a very strong basis at this point to  
00:40:47 **16** argue: Ladies and gentlemen, what did they really do? Mr.  
-13:-33:-19 **17** Amawi goes back to Jordan, I can't remember how many months he  
-13:-33:-19 **18** was there, and talking to Mr. Griffin, well, I'm not going to  
00:41:02 **19** Syria, we can't get in. He stayed home apparently. And  
00:41:11 **20** wherever these people are that were so actively involved in  
-13:-33:-19 **21** creating cells and killing and training, one, two, three, maybe  
-13:-33:-19 **22** two over how many months, we don't know what you have available  
-13:-33:-19 **23** to you -- and again, I just have a -- candidly, we go, if we go  
00:41:39 **24** that direction for the defense, I think the government's desire  
00:41:43 **25** to go in Mr. Kohlmann's direction for very similar reasons, say,

-13:-33:-19 **1** look, this -- Mr. Amawi had this really massive collection of  
00:41:54 **2** videos, suggest to the jury that there's something pathological  
-13:-33:-19 **3** about all of this, and we wind up focusing and fussing about  
-13:-33:-19 **4** stuff that gets us further and further away from the stone's  
00:42:15 **5** path in the pond. The ripples don't get smaller; they get  
00:42:19 **6** bigger. That's really my concern.

00:42:24 **7** MR. HERDMAN: Your Honor, if I may briefly. With  
00:42:26 **8** respect to Evan Kohlmann, he's probably not the best expert that  
00:42:30 **9** would be best suited.

-13:-33:-19 **10** THE COURT: No, I'm saying the areas you want him  
-13:-33:-19 **11** to testify to, just what I wanted to say in response to Mr.  
-13:-33:-19 **12** Bryan's notion of Islam as a social -- or Jihad as a social  
00:42:42 **13** movement is that the Group of Guys theory that was developed by  
-13:-33:-19 **14** Mr. Sageman. The Group of Guys Theory was not developed by Mr.  
-13:-33:-19 **15** Aslan. In fact, it was developed by, at least as far as I'm  
-13:-33:-19 **16** aware, a person by the name of Mark Sageman, and it refers  
00:43:02 **17** specifically to groups of young men who do become radicalized  
-13:-33:-19 **18** and then ultimately commit acts of violent Jihad, suicide  
00:43:10 **19** bombings or attacks. So it seems to me that it would be in the  
-13:-33:-19 **20** government's imperative, if this testimony were allowed by Mr.  
00:43:17 **21** Aslan with respect to Jihad as a social movement, the government  
-13:-33:-19 **22** would be entitled to respond with similar expert testimony  
-13:-33:-19 **23** saying, no, the way we know about these Groups of Guys...  
-13:-33:-19 **24** I agree completely. In other words, I wouldn't  
-13:-33:-19 **25** say -- the point I was making, though, if we start going off in

00:43:37 **1** the directions that their experts want to take us, that seems to  
-13:-33:-19 **2** me to be every bit as ancillary and to have very little useful  
00:43:50 **3** probative value. But on the other hand, it seems to me quite  
00:43:55 **4** similar to when I read Mr. Kohlmann's report, that there was a  
-13:-33:-19 **5** massive quantity of information about all kinds of stuff, that  
00:44:08 **6** there is some maybe little thread of relationship here and  
-13:-33:-19 **7** there, but it doesn't have that firm kind of connection into  
-13:-33:-19 **8** this case, the activities charged to the defendants, or to them  
00:44:26 **9** themselves.

-13:-33:-19 **10** MR. GETZ: Respectfully, Your Honor, I would  
00:44:29 **11** disagree with that for the following reasons: I'll take that as  
-13:-33:-19 **12** an example. The reason that that testimony is connected to  
00:44:37 **13** this case is because it is connected to the evidence. Once  
-13:-33:-19 **14** again, that evidence that is already or will be introduced in  
00:44:46 **15** the case. Now, I understand the Court's concerns about the  
-13:-33:-19 **16** ripples; I'll concede that's moving out in a direction away from  
-13:-33:-19 **17** the center here. But what Counsel is referring to doesn't even  
00:44:59 **18** tie back directly to something concrete like that.

-13:-33:-19 **19** THE COURT: I understand.

-13:-33:-19 **20** MR. GETZ: And I do think Mr. Sofer's point is very  
-13:-33:-19 **21** well taken, which is I'm sitting here listening to these  
00:45:14 **22** theories that Counsel is throwing out, there is a large body of  
-13:-33:-19 **23** information and expert testimony throughout which takes a very  
00:45:20 **24** contrary view to this. And would I think there's many experts  
-13:-33:-19 **25** who would come in here and say the actions in this case and the

00:45:30 **1** information that's -- that was developed by the government very  
-13:-33:-19 **2** well -- that their expert testimony would be that these men were  
00:45:38 **3** well on their way to doing exactly the kinds of things that our  
00:45:43 **4** country fears. We're not going that -- that's something we've  
-13:-33:-19 **5** never tried to introduce to the case.

00:45:50 **6** The only expert we've proffered has at least been

-13:-33:-19 **7** limited to sort of the forensic evidence that was recovered in

-13:-33:-19 **8** the case, not some broader version of terrorism or social

-13:-33:-19 **9** movements or even just human interaction. It goes back to

-13:-33:-19 **10** where the government started with all of this, which is my

00:46:11 **11** point, which is, so long as we are focused on the issues in the

-13:-33:-19 **12** case, and evidence in the case, the government is comfortable

00:46:22 **13** with expert testimony. I think all three of these experts --

-13:-33:-19 **14** it's almost the exact same simple concept which is we're moving

00:46:34 **15** beyond the evidence and into something else.

-13:-33:-19 **16** THE COURT: I understand. As I've said fairly

00:46:42 **17** frequently, my concern is the nexus. And let me say we do have

-13:-33:-19 **18** to finish, maybe a couple more minutes. There is an issue we

-13:-33:-19 **19** have to discuss in chambers and you have to go.

00:46:56 **20** MR. HARTMAN: Yes, I have to go in about 15

-13:-33:-19 **21** minutes.

-13:-33:-19 **22** THE COURT: It's going to take five, ten minutes to

-13:-33:-19 **23** talk about.

-13:-33:-19 **24** MR. HARTMAN: Can we discuss that with Mr. Helmick

-13:-33:-19 **25** and Mr. Doughten?

00:47:08 **1** MR. GETZ: I don't think the question, Your Honor,  
-13:-33:-19 **2** what I know of it, from what little I know of this, I don't  
-13:-33:-19 **3** believe we can.

00:47:15 **4** MR. HARTMAN: I'll call and see if he can get back  
-13:-33:-19 **5** here.

00:47:19 **6** THE COURT: Or by phone. Phone is fine. Either  
00:47:24 **7** here or, David, either one.

00:47:26 **8** MR. BRYAN: Your Honor, it's very important that I  
-13:-33:-19 **9** address this issue of Evan Kohlmann in this respect. A lot of  
00:47:41 **10** this -- when we sought out experts a lot of it had to do in  
-13:-33:-19 **11** response to Mr. Kohlmann, quite frankly. But at the same time,  
-13:-33:-19 **12** we think comparing our experts to comparing the Court's concerns  
-13:-33:-19 **13** about Mr. Kohlmann are a little bit like comparing apples to  
-13:-33:-19 **14** oranges. The government already has the impression that if  
00:48:05 **15** they're looking at something so horrific, and you support that  
00:48:10 **16** which you're looking at, they have the common-sense --  
00:48:13 **17** supposedly common-sense belief that most people will say, well,  
00:48:18 **18** if you support it you're likely to do it. You're just this far  
-13:-33:-19 **19** away.

-13:-33:-19 **20** I disagree with their statement that people who  
00:48:25 **21** watch these videos and collect large volumes of these videos, I  
-13:-33:-19 **22** think Your Honor does as well, because there is what Mr.  
-13:-33:-19 **23** Kohlmann was trying to convey, that they are just that far away  
-13:-33:-19 **24** from becoming a Mujahidin, a Jihadist, that they are going to  
00:48:41 **25** carry out a terrorist act. What our experts are here to say is

00:48:45 **1** this is commonplace, it's commonplace throughout the Middle East  
-13:-33:-19 **2** that people sit around, they talk about these things, they cheer  
-13:-33:-19 **3** for their side, they cheer for the Arab side. They view these  
-13:-33:-19 **4** videos, they use these videos to educate one another because  
-13:-33:-19 **5** they don't believe they're getting a fair story. The chance of  
-13:-33:-19 **6** a people viewing a lot of videos then putting something into  
00:49:07 **7** action -- true, Mr. Herdman talks about the radicalization  
00:49:11 **8** process, that happens from time to time out of the legion of  
-13:-33:-19 **9** individuals that are looking at this stuff. From time to time  
-13:-33:-19 **10** those people become mobilized, they are able to do so. What  
-13:-33:-19 **11** Mr. Aslan also will testify to is in order for that to occur,  
00:49:30 **12** there usually has to be some intensive one-on-one contact with  
-13:-33:-19 **13** what the -- what the literature suggests are -- they call them  
00:49:42 **14** mobilizers, recruiters, people; not through a videotape but  
-13:-33:-19 **15** after someone has been indoctrinated by someone acting as a  
-13:-33:-19 **16** father figure, someone acting as a mobilizer to try to get  
-13:-33:-19 **17** people to take those personal feelings and turn them into  
00:50:00 **18** action.  
-13:-33:-19 **19** So generally the social movement theory says that  
-13:-33:-19 **20** most people are free riders. What Evan Kohlmann says is the  
00:50:10 **21** contrary; the converse is true. He's saying because you're  
-13:-33:-19 **22** looking at those videos, you're that far away from joining the  
-13:-33:-19 **23** cause. That's what the government wants to argue to the jury.  
00:50:20 **24** That's why they want to introduce Evan Kohlmann still.  
-13:-33:-19 **25** THE COURT: Mr. Kohlmann isn't even on the bench.

-13:-33:-19 **1** He's outside the park somewhere.

00:50:32 **2** MR. BRYAN: Well, the government -- I just received

00:50:34 **3** before the Court today the government's suggestions.

00:50:36 **4** THE COURT: I'll look at that Monday.

-13:-33:-19 **5** MR. BRYAN: Minimizing his testimony. We'll

-13:-33:-19 **6** address that on Monday, but as it relates to the issue of

00:50:44 **7** jihadism and in terms that can be defined, we don't feel that

-13:-33:-19 **8** our expert -- if we're just going to have him come in and define

-13:-33:-19 **9** the term, we feel that we're just as happy with the

-13:-33:-19 **10** stipulations. If our experts aren't going to be permitted to

00:50:59 **11** testify to the meat and potatoes of that, which we need them to

-13:-33:-19 **12** testify to to help them explain in innocent terms our clients'

-13:-33:-19 **13** conduct, and not in sinister terms our clients' conduct, then --

-13:-33:-19 **14** but instead they're just permitted to come in and say this is

-13:-33:-19 **15** what this term mean, we're prepared to do that with

-13:-33:-19 **16** stipulations. We're even willing to concede some of the

-13:-33:-19 **17** government's interpretations of what those stipulations have

00:51:26 **18** said.

00:51:27 **19** THE COURT: Excuse me, deputy, could you ask Deputy

00:51:31 **20** Wagner, if he's still here, if he could come down.

00:51:47 **21** MR. HARTMAN: I didn't get Helmick. We're going

00:51:51 **22** to try Doughten.

00:51:52 **23** (Whereupon there was a conference in chambers

**24** sealed by order of the Court.)

**25**

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I certify that the foregoing is a correct transcript from the  
record of proceedings in the above-entitled matter.

<u>/s Tracy L. Spore</u>	_____
Tracy L. Spore, RMR, CRR	Date